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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,272	11/11/2005	Gerhard Schimanz	4301-1134	5085
466	7590	07/14/2006	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			VOGELBACKER, MARK T	
			ART UNIT	PAPER NUMBER
			3677	

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/531,272	Applicant(s) SCHIMANZ, GERHARD	
	Examiner Mark T. Vogelbacker	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/13/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/13/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed April 13, 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. The information disclosure statement has been placed in the application file, but document "DE 489529" referred to therein has not been considered.

Specification

2. The disclosure is objected to because of the following informalities:

The abstract of the disclosure is objected to because reference numeral "2" is assigned to both "coupled banner" and "airplane".

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-8, 10 and 14-20 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4, 14 and 15 recite the limitation "the two lengthwise edges" in line 4. There is insufficient antecedent basis for this limitation in the claim. The claims do not properly define the structure of the banner to establish proper antecedence for "the two lengthwise edges".

Regarding claims 5 and 16-18, the phrase "either side bear running . . ." is confusing. Structurally, what is meant by the term "bear"? Line 3, what structure is the term "them" referring to? Further, the phrase "turning capacity" is unclear. What defines a "turning capacity"? If "turning capacity" is defined as "an ability to turn", then almost any structure has the ability to turn.

Regarding claims 6, 19 and 20, lines 1-4 are confusing. The passive-voice structure of the claim makes the claim difficult to understand. Further, what structure is the term "them" referring to?

Regarding claim 10, line 2, the term "within" is confusing. The term "within" conveys that the weight is located inside, or within the interior of, the banner rod.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

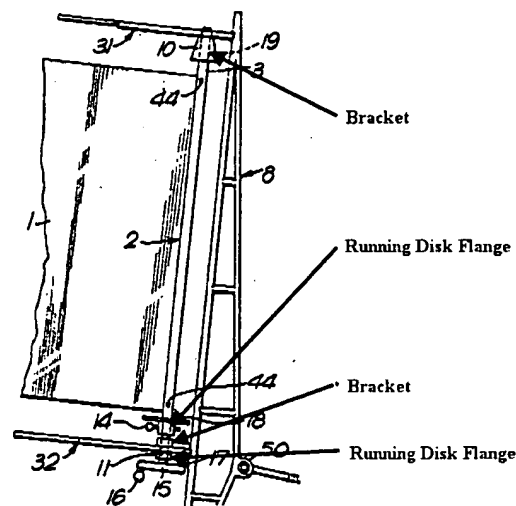
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-8 and 13-20 are rejected under 35 U.S.C. 102(b) as anticipated by Boyce, US-4,178,706.

Art Unit: 3677

Boyce discloses the invention as claimed, including a banner (1) and a banner rod (3) that can be coupled to an aircraft (col 1, lns 9, 10, 21) via a banner spider (8) and a tow rope (49). Two round disks (15, 18) are pivotally mounted on the end banner rod (3) with running disk flanges and brackets. A bracket is attached to the banner rod (4) using a screw (14).



7. Claims 1-4, 9 and 13-15 are rejected under 35 U.S.C. 102(b) as anticipated by French et al., US-4,381,117.

Boyce discloses the invention as claimed, including a banner and a banner rod that can be coupled to an aircraft via a banner spider (70) and a tow rope (40). Two round disks (65) are pivotally mounted on the banner rod and a weight (30) is on one end of the banner rod.

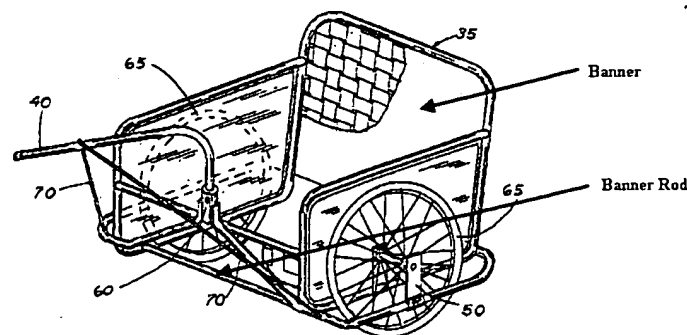


Fig. 2

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyce, US-4,178,706.

Regarding claims 9 and 10, Boyce teaches the invention as claimed, including a weight (26) on one end of a second banner rod (6), but does not mention that the weight is located within the first banner rod (3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the location of the weight of Boyce to be placed within the first banner rod, as claimed, since it has been held that rearranging parts of an invention involves only routine skill in the art.

Regarding claims 11 and 12, Boyce teaches the invention as claimed, including a lengthened section (25) of a second banner rod (6), but does not explicitly mention that the lengthened section is a dive hose. It would have been obvious to one of ordinary skill in the art at the time the invention was made to lengthen the banner rod with a dive hose, as claimed, instead of extending the banner rod, as taught by Boyce, since the Office considers using a dive hose equivalent to extending the banner rod since both perform the function of placing the weight at a distance from the banner.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Vogelbacker whose telephone number is (571) 272-1648. The examiner can normally be reached on 8:00 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MTV

Mark Vogelbacker
Assistant Examiner
Art Unit 3677


ROBERT J. SANDY
PRIMARY EXAMINER